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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,224	10/28/2003	D. T. Thomas Cordle	CHR1058	2982
44088	7590	03/28/2005	EXAMINER TON, ANABEL	
SEAN KAUFHOLD P. O. BOX 89626 SIOUX FALLS, SD 57109			ART UNIT 2875	PAPER NUMBER

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

N.A

Office Action Summary	Application No.	Applicant(s)	
	10/694,224	CORDLE ET AL.	
	Examiner	Art Unit	
	Anabel M. Ton	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5, 9 and 10 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 6-8 and 11-13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the first candleholder in structural combination with the second candleholder in structural combination with the plurality of bases must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: Applicant recites in the disclosure a plurality of different embodiments for a first, second, third and fourth candleholder. Applicant claims these multiple and different embodiments (for example in claims 1 and 14 (especially 14)) as part of one embodiment. Appropriate correction is required.
3. As best understood the following rejection applies.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. Claims 1,2,5,9,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiedemer, Jr. (6,186,646).

Wiedemer discloses a first candleholder including an elongated plate having a top side having a plurality of wells extending therein (1), a rod being attached to a bottom side of said plate, said rod having a free end defining a threaded male coupler (14,15); a plurality of bases, each of said bases having a bottom wall, a top wall and peripheral wall extending between said top and bottom walls, each of said top walls having a threaded aperture extending therein and being adapted for receiving a threaded male coupler, each of said bases having a different size; and wherein candles

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may be selectively positioned in said wells (fig 3). Wiedemer does not disclose a second candleholder having a generally same shape as the first candle candleholder and a smaller size than said first candleholder including an elongated panel having a top side having a plurality of wells extending therein, a pole being attached to and extending downwardly from a bottom side of said panel, said pole having a free end defining a shape of said first candleholder, threaded male coupler. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a second candle holder having a generally same shape as the first candle candleholder has been held that mere duplication of essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8. Furthermore, with regard to the second candleholder being smaller than the first, it has been held that matters relating to ornamentation only which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention from the prior art. *In re Seid* , 161 F.2d 229, 73 USPQ 431 (CCPA 1947)

- Wherein said plate and said panel each have a plurality of openings extending wherein, said openings being positioned in a respective one of said top sides (fig 3);
- Wherein each of said bases has a frusta-pyramidal shape (13).
- Further including a plurality of extension members each being elongated and having an upper end and a lower end, each of said upper ends defining a

threaded female coupler and each of said lower ends defining a threaded male coupler (21,12,27);

- Wherein at least one of said extension members has a plurality of holes extending therein said holes being aligned between said upper and lower ends (extension members are hollow).

Allowable Subject Matter

3. Claim 14 is allowed.
4. Claims 3,4,6-8,11-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M. Ton whose telephone number is (571) 272-2382. The examiner can normally be reached on 08:00-16:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anabel M Ton
Examiner
Art Unit 2875

AMT


Stephen Husar
Primary Examiner